

REDEVELOPMENT AGENCY AGENDA #4D
MEETING OF JULY 8, 2003



STAFF REPORT

Resolution approving an amendment to the Resale Restriction Agreement between the RDA and owners of the seven BMR units in the Sterling Point Condominium Development.

July 8, 2003

Honorable Chair and Directors:

Summary

It is recommended that the Redevelopment Agency revise the Resale Restrictions for the seven participating condominiums of the Sterling Point Development. The requested change would 1) provide consistent language for the seven Resale Restriction Agreements, 2) tie the unit valuation to moderate income (adjusted annually), 3) set the term of the affordability restriction at 45 years, and 4) establish standard procedures for capital improvement approval.

Background

The Los Costanos Redevelopment Agency (RDA) was established in 1981 to foster development of affordable housing.

In 1992, Sterling Point, a condominium development was constructed at the corner of Masonic Way and Old County Road. To support the Agency's moderate-income unit production goals, 15% of the 48 condominium units (seven units) were offered Below Market Rate (BMR) to moderate-income families. A San Mateo County, Mortgage Credit Certificates (MCC) tax credit was available to first time homebuyers but there were no Belmont Redevelopment Agency loans generated.

Each of the participating BMR units are two bedrooms, two bathrooms with a one car attached garage (Attachment d, Program promotional material 1992).

The seven units were initially sold in an eight (8) month time period in between November 1992 and June 1993. Unfortunately, the Resale Restriction documents recorded for these units were inconsistent because minor adjustments were recorded.

In September 2002 the Agency was asked to amend the seven Agreements, and the Agency requested that the staff research home values and that the staff dialogue with applicants. Since then the seven applicants revised their request (see attachment b).

Request

The Sterling Point BMR unit owners now request four amendments to their Resale Restriction Agreements, as follows:

1. Establish consistency between the seven Resale Restriction Agreements.
2. Fix unit valuation for purposes of resale to moderate-income limits instead of the existing annual 2% increase.
3. Establish the term of the affordability restriction is 45 years instead of the existing 47.
4. Establish standard procedures for capital improvement approval so as to make the administrative review less subjective

Analysis

The Resale Restriction Agreement is a legal agreement between the Belmont Redevelopment Agency and the Property Owner, and each of the seven documents are recorded against the property through the County Recorder's office. Seven separate agreements have been executed and recorded. Any change of the recorded document must be formally amended by both parties and re-recorded with the County.

Contract consistency

Section 9 of the Resale Restriction Agreements is not consistent between the seven contracts. In fact there are three separate versions that specify and emphasize different points. These differences are not substantial, but have caused the property owners to be concerned about why they were treated differently. Staff has reviewed the contract differences and recommends a single format for the seven contracts. If the Agency agrees, a new contract will be prepared by our RDA Attorney, consistent with Redevelopment Law, containing the terms as approved by the Agency

Unit Valuation

The original program was designed with a 2% annual increase to a base price of \$173,000. This annual increase was consistent with the housing market movement of the time, however, the market of the late 1990's and early 2000's increased more than anticipated. For example, the units purchased at \$173,000 in 1992 would be limited in 2003 to \$207,600 when the Median sales price for a comparable unit was \$395,000.

| Home Sales Data * | | |
|--|-----------|--------------------|
| Median Sales Price (Condominiums/Townhomes) - Quarter ending March 2003 | \$395,000 | 1-Yr. Change +6.2% |
| Average Sales Price (Condominiums/Townhomes)- Quarter ending March 2003 | \$409,527 | Yr. Change +1.6% |

*San Mateo County Association of Realtors (SAMCAR), First Quarter 2003 Completed Sales data.

Homebuyers Assistance Programs through out the County restrict sale price based on regional income limits (established by HUD shown in the following table - 120% of the median San Mateo County income adjusted for household size) rather than a set percentage increase.

2003 Moderate Income Limits *
(Gross Annual Household Income)

| Persons/Household | Annual Income Limit | Gross Monthly Income |
|-------------------|---------------------|----------------------|
| 1 | \$76,850 | \$6,404 |
| 2 | \$87,850 | \$7,321 |
| 3 | \$98,800 | \$8,233 |
| 4 | \$109,800 | \$9,150 |
| 5 | \$118,600 | \$9,883 |

* Income limits from HUD and shall be adjusted annually

The California Health and Safety Code, Section 50052.5, affordable housing cost, states "Affordable housing cost means, with respect to lower income households, housing cost not exceeding 25 percent of gross income."

Staff believes that the intent of the subject Resale Restriction Agreement was to assure the units be Moderate Income Affordable, and that the contracts could be simplified to fulfill this objective by requiring that *"The price received by a subsequent seller of this unit shall be limited to the amount paid by the original grantee (\$_____), plus an increase equal to any percentage increase in the housing component of the Bay Area Consumer Price Index (as published periodically by the United States Department of Housing and Urban Development) since the date of the previous sale, and the maximum sales price that the Owner shall receive for any type of Transfer of the Residence shall be the Moderate Income Affordable Price, increased annually"*. Staff recommends this change.

Term of the affordability

The long-term affordability limit is required by Redevelopment Law because these are required units within the Redevelopment Project Area. The existing affordability limit was written into the Development Agreement between the project developer and the City of Belmont in 1992 and requires that the affordability restriction be maintained for 47 years. Current Redevelopment law requires that an affordability restriction be maintained for not less than 45 years. Staff supports the applicant's request that the duration of the affordability limit is to be adjusted to be not less than 45 years so as to be consistent with current Redevelopment law.

Procedures for Capital Improvements

The language of the current Resale Restriction Agreement adds the cost of capital improvement expenses to the value of the unit. Planning staff believes there are two disadvantages to this incentive.

- 1) The owner is required to submit the capital improvement plan for Agency review/ approval which, has in the past led to administrative staff judging appropriateness of private home improvements. Staff has received complaints from affected owners whose proposed capital improvements were denied by the City.
- 2) There is an inherent incentive to improve the unit in order to increase the sales price above and beyond the moderate-income affordable price and this undermines unit affordability. Plus, the

owner is currently awarded the benefit of a capital improvement without regard to depreciation over time.

Staff has researched both the Foster City BMR program and discussed with City of San Mateo their policies for "BMR Capital Improvements" (our two local examples of this type of program), and in this report staff proposes to shift the focus of the current Belmont approval procedure.

Staff proposes that Capital Improvements still be subject to administrative review and approval, but staff would merely document the nature and scope of any work rather than judge appropriateness of the work against unit value. The value of improvements would be assessed by a professional appraisal at the time of unit sale. This change would:

- Add incentive to improve and maintain the townhomes.
- Allow owners to make home improvements (with all necessary permits and in accordance with applicable codes, regulations, covenants, conditions, and restrictions) like any other home.
- Factor natural wear and tear of a capital improvement as the home is being sold.
- Assure, through the "Resale Restriction Agreement" that the unit owner/seller would not be able to recoup extravagant investment because the unit must be sold at the moderate-income affordable price.

Staff believes that the intent of the subject Resale Restriction Agreement was to assure the units are Moderate Income Affordable Price, and that the contracts could be simplified to fulfill this objective. Staff recommends the following language, *"The maximum sales price that the Owner shall receive for any type of Transfer of the Residence shall be the Moderate Income Affordable Price. Capital Improvements shall be reported to Agency representative in order to document unit changes. The unit shall be formally appraised at the time of unit sale in order to establish property value but that the maximum unit sales price will be the current Median Sales Price"*.

Fiscal Impact

None

Conclusion and Recommendation

Staff recommends that the Agency authorize the Executive Director to execute revised resale restriction agreements between the RDA and participating units in the Sterling Point Condominium Development, to include the following: 1) provide consistent language for the seven documents, 2) tied the unit valuation to moderate income affordable price, 3) that the term of the affordability restriction be 45 years, and 4) establish standard procedures for capital improvement approval.

Alternatives

1. Leave the existing agreements un-changed and in place for the seven properties.
2. Provide staff with direction on an improved Resale Restriction Agreement.

Attachments

- a. Resolution to authorize staff to amend the seven Resale Restriction Agreement contracts and to effectuate changes in contracts.

b. Letter of request

Respectfully submitted,

Dia Swan
Associate Planner

Craig A. Ewing, AICP
Administrative Officer

Jere A. Kersnar
Executive Director

RESOLUTION NO. _____

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BELMONT
AUTHORIZING STAFF TO AMEND THE SEVEN RESALE RESTRICTION AGREEMENT
CONTRACTS AND AUTHORIZING STAFF TO EFFECTUATE CONTRACT CHANGES

WHEREAS, the City Council of the City of Belmont (the "City Council") has adopted and amended, from time to time, the Los Costanos Redevelopment Plan (the "Plan") for the Los Costanos Redevelopment Project Area (the "Project Area"); and,

WHEREAS, among the central objectives of the Plan, the City's General Plan, and the California Community Redevelopment Law, as found in Health and Safety Code Section 33000 et seq. (the "Redevelopment Law"), are (1) the creation of housing opportunities and rehabilitation of existing housing for low and moderate income households, and (2) the expansion of employment opportunities for jobless, underemployed and low income persons; and,

WHEREAS, in order to serve these objectives, the Redevelopment Agency of the City of Belmont (the "Agency") approved a "Development Agreement" with Stellar Homes, Inc. to provide seven Moderate Income Units in the Sterling Point Condominium Development; and,

WHEREAS, seven separate Resale Restriction Agreements were recorded between the Agency and the seven property owners; and

WHEREAS, by the staff report accompanying this Resolution (the "Staff Report") and incorporated herein by reference, the Agency has been provided with additional information upon which the actions set forth in this Resolution are based.

WHEREAS, the Agency agrees to amend the Resale Restriction Agreements to provide the following terms:

4. Consistency between the seven Resale Restriction Agreements.
5. Unit valuation for purposes of resale to moderate-income limits.
6. Term of the affordability restriction is 45 years.
7. Standard procedures for capital improvement approval.

NOW, THEREFORE, BE IT RESOLVED, that the Redevelopment Agency of the City of Belmont hereby authorizes and directs the Executive Director of the Agency to amend the seven Resale Restriction Agreements consistent with the terms stated herein a form approved by the Agency Attorney.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Redevelopment Agency of the City of Belmont at a regular meeting thereof held on July 8, 2003 by the following vote:

AYES

DIRECTORS: _____

NOES

DIRECTORS: _____

ABSTAIN

DIRECTORS: _____

ABSENT

DIRECTORS: _____

SECRETARY, Redevelopment Agency

APPROVED:

CHAIR of the Board of Directors, Redevelopment Agency